

Remarks

A new first paragraph, following the title, has been added to the specification to reflect priority data. This amendment to the specification is consistent with the priority data recited in the inventors' declaration.

A new Abstract, which is by itself on a separate sheet, not containing additional information, is being provided, although not specifically requested by the Examiner. This new Abstract is consistent with requirements Applicant's attorney has received in other national stage applications and is intended to expedite prosecution.

Claims 1-3 and 7-15 are pending in this application. Claims 4-6 have been withdrawn consistent with the Examiner's election requirement being made final. Claims 1, 7, 8, 14 and 15 have been amended in this response and Claim 11 has been cancelled.

Claims 7, 8, 14 and 15 have been amended with respect to their dependency. Claim 1 has been amended by deleting one of the active ectoparasitocidal agents contemplated as being useful in the present formulations. Applicants respectfully contend the amendments are fully supported by the specification in the present application and do not add new matter.

All pending claims stand rejected under 35 U.S.C. 103(a) over Snyder (U.S. 6,342,482) in view of Bosserelle (U.S. 4,740,432) and JP03251520. Applicants respectfully traverse this rejection and request reconsideration.

Applicants respectfully contend Snyder is not a reference against the presently claimed invention, in accordance with 35 U.S.C. 103(c). The present application has claimed a priority date of August 12, 1999 (see Inventors Declaration). The first publication of a patent application corresponding to Snyder occurred on January 13, 2000 as WO 00/01347, a copy of the front page is attached as part of Exhibit 3. The provisional application filing date for the present application is prior to the first publication of Snyder anywhere in the world. The only possible art effect of Snyder would be under 35 U.S.C. 102(e)/103. Both Snyder and the present application are assigned to the same entity, namely Eli Lilly and Company. Under 35 U.S.C. 103(c), Applicants respectfully contend Snyder is not available as a prior art reference against the presently claimed invention.

Applicants were all employees of Eli Lilly and Company at the time the present invention was made. They were under an obligation to assign any inventions made to Eli Lilly and Company. Attached as Exhibit 1 is a copy of the Assignment of the U.S. provisional patent application by the inventors to Eli Lilly and Company. Attached as Exhibit 2 is a copy of the Recordation Cover Sheet and the Assignment of the present patent application showing title is held by Eli Lilly and Company. Also attached as Exhibit 3 are the front pages of U.S. 6,063,771 and U.S. 6,342,482 B1 both showing Eli Lilly and Company as the assignee of the Snyder inventions and patents.

Attached as Exhibit 4 is a copy of a Request for a Corrected Filing Receipt and a copy of the originally issued receipt with the correction noted, as well as a copy of the postcard receipt stamped by the Patent and Trademark Office evidencing receipt of this Request. This was filed to correct omission of the provisional application date from the originally issued Filing Receipt.

Applicants assert the several Exhibits evidence the priority application for the present invention was filed before the earliest publication date of Snyder which is WO 00/01347. Both the U.S. Snyder patents and the present application, including the provisional patent application, are assigned to Eli Lilly and Company. The inventors of the present invention were, at the time the invention was made, under an obligation to assign, and did assign such invention to Eli Lilly and Company. Applicants respectfully contend the Exhibits clearly demonstrate under 35 U.S.C. 103(c) Snyder is not a 102(e)/103 reference against the present application.

Bosserelle generally discloses cosmetic compositions, one of which is a shampoo, that contains as a single component "triglycerides of fatty acids" in the multi-component cosmetic compositions. The triglycerides' component, in turn, comprises a mixture of myristic acid, palmitic acid, stearic acid, linoleic acid, linolenic acid and oleic acid. Each of the acid substituents of the triglycerides component has a percent by weight range associated with its presence in the triglyceride component as a whole. The amount of oleic acid substituent in the triglycerides component is 8-14 percent, while the triglyceride component comprises 85-94 percent of the total weight of the cosmetic composition. Necessarily, the amount of oleic acid in the cosmetic composition is less than 8-14 percent by weight.

Applicants respectfully assert the use of oleic acid as one substituent of one component of the cosmetic compositions of Bosserelle does not teach or suggest the use of that substituent in the presently claimed formulations. Applicants respectfully contend there is nothing to suggest less than the triglycerides component as a whole can or should be used.

The reference JP '520 generally discloses a shampoo composition comprising a four component mixture, one of which is an oil component. That oil component, may, in turn, be selected from among four large groups stated to be animal oil, vegetable oil, ester oil or hydrocarbons. Applicants respectfully contend there is nothing to suggest the selection of isopropyl myristate or any of the small group of esters presently claimed from among the four large groups of oil component from the four component composition disclosed in the JP '520 reference.

Applicants respectfully contend a prima facie case of obviousness is not established against the presently claimed invention. Applicants further respectfully contend neither Bosserelle nor JP '520 discloses or suggests Applicants claimed invention of a topical

ectoparasiticial formulation having the stated weight percent of a spinosyn or a physiologically acceptable derivative or salt thereof; a C₃-C₆ branched alkyl C₁₀-C₂₀ alkanoate spreading agent, which is also the solvent; and up to about 70 weight percent of a miscibilizing agent compatible with organic solvent systems.

In view of the amendments to the claims and the remarks made herein, Applicants respectfully request favorable reconsideration of this application.

Respectfully submitted,



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